

## MINUTES

### BOARD OF ADJUSTMENT HEARING

March 12, 2008

#### ATTENDANCE

##### Board Members

##### ATTENDED

1. Bill Arendell, Chairman
2. Hartley Turley

##### ABSENT

Carla Bowen

##### Staff Attendance

1. Bill Fraley, Deputy Director
2. Linda Elliott, Planner I
3. Doris Hernandez, Secretary

Meeting held at the Navajo County Board of Supervisors Chambers, Holbrook, Arizona – Time: 10:00.

**Bill Arendell** called the meeting of the Navajo County Board of Adjustment to order and explained the meeting procedures to the public. **Mr. Arendell** then led the Pledge of Allegiance.

**Item #1 - Variance:** Discussion and possible Board action on a request by **Joan Wuertz** for a variance from the Navajo County required 20-foot rear yard setback to 15' setback to allow for construction of a proposed 9 ft. x 26 ft. room addition in the rear of the lot. APN: 411-54-111, Township 8 North, Range 23E, Section 1, located at 7855 Buck Springs Road, Pinetop Country Club Unit 4 in the Pinetop area.

**GENERAL CHARACTER OF NEIGHBORHOOD:** This property and all properties surrounding it are all zoned R1-10. The area is located within the Pinetop Lakes Country Club subdivision. **ZONING DISTRICTS:** Current: R1-10 Uses: Residential Single-family dwellings, schools, parks, churches, public utility buildings, accessory buildings, playgrounds, public riding stables and other community buildings. **ZONING ORDINANCE:** Article(s): 28 – Board of Adjustment Section(s): 2802- Power and Duties. **STATED REASON FOR REQUEST:** Variance from the Navajo County required 20-foot rear yard setback to 15-foot, to allow for construction of a proposed 9 ft. x 26 ft. room addition. **CHANGING CONDITIONS:** The proposed variance will allow a reduction in the required rear yard setback. It doesn't appear to inhibit fire/safety protection or interfere with utility easement usage. **FINDINGS OF FACT:** 1. This item has been properly noticed and posted in compliance with Arizona Revised Statutes and Article 28. **ENGINEERING COMMENTS:** Engineering has examined the plat and the parcel and has no comments, pro or con, regarding the requested variance. There are mitigating circumstances, however, regarding the issuance of a building permit. **FLOOD CONTROL COMMENTS:** Flood control has reviewed 411-54-111. This parcel is not in a FEMA floodplain per FEMA map 2500C dated 8/16/1988. Flood Control has no objections to this Variance. **PLANNING & ZONING DEPARTMENT:** The staff has reviewed the property and finds that the variance will still leave 15' from the neighbor's property line. No easements were found in the rear yard. The Pinetop Community Association has given approval of the variance. The adjacent parcels have been posted and staff sees no negative impact on the neighborhood. **PUBLIC WORKS DEPARTMENT RECOMMENDATION:** Should the Commission grant this Special Use Permit request, staff would recommend the following conditions be applied. The variance shall automatically expire if substantial construction, in accordance with the plans for which the variance is granted, has not been completed within one year from the date on which the variance is granted. **Joan Wuertz**, owner of the property, was present. **Bill Fraley** gave a brief description of the parcel. He showed maps of the lot. One property owner, **Caverly**, opposed the variance. **Mr. Fraley** explained that the mitigating circumstances on the engineering comments were that the foundation had been poured and when they went and spoke to the owners and the contractor they stopped construction and have not done any further work. He also stated that this is not an issue with this variance. **Bill** displayed the plot plan showing the addition will be. Pictures show heavily wooded area. **Hartley Turley** asked if the porch was already in the addition. **Mr. Fraley** explained that it was the deck and that there wasn't any violation. He showed

that the variance will be from the foundation over to the back property line. **Bill Arendell** informed staff that they did not receive the letter of opposition. **Mr. Fraley** then read the letter to the board members. **Joan Wuertz**, the owner of the property stated that they started this in August and they have had trouble all along and they keep filing variances and that this is the third time. She stated that she thinks that because there has been a change and it hasn't been consistent and that they just want to get this done. She also stated that their house is not anywhere near where the house of the neighbor that is opposed to this variance. She stated that the neighbors' house doesn't start until the end of her house. They are not blocking any view. **Cynthia Jellison** spoke in favor of the variance. She stated that she is on the board of the Pinetop Community Association and that they approve of the variance. **Mr. Turley** made a motion to approve the variance with conditions. **Mr. Arendell** seconded the motion. The motion was unanimous. Approved by Resolution No. 08:03B

**Item #2 - Variance:** Discussion and possible Board action on a request by **Verdelia Jane Lindsey** for a variance from the Navajo County required 10-foot side-yard setback to 6-foot setback to allow for construction of a proposed attached garage and handicapped access ramp. APN: 411-79-478, Township 8 North, Range 23East, Section 11, located at 5798 Bermuda Circle, Pinetop Lakes Mountain Homes Unit 4 in the Pinetop area. **GENERAL CHARACTER OF NEIGHBORHOOD:** This property and all properties surrounding it are all zoned R1-10. The area is located within the Pinetop Lakes Mountain Homes subdivision. **ZONING DISTRICTS:** Current: R1-10 Uses: Residential Single-family dwellings, schools, parks, churches, public utility buildings, accessory buildings, playgrounds, public riding stables and other community buildings. **ZONING ORDINANCE:** Article(s): 28 – Board of Adjustment Section(s): 2802- Power and Duties. **STATED REASON FOR REQUEST:** Variance from the Navajo County required 10-foot side yard setback to 6-foot, to allow for construction of a proposed attached garage and handicapped access ramp. **CHANGING CONDITIONS:** The proposed variance will allow a reduction in the required side yard setback. It doesn't appear to inhibit fire/safety protection or interfere with utility easement usage. **FINDINGS OF FACT:** This item has been properly noticed and posted in compliance with Arizona Revised Statutes and Article 28. **PUBLIC COMMENT:** Number in Favor: 0\* Number Opposed: 1. Pinetop Lakes Home Owners Association has approved request for variance. Please see enclosed letters. **ENGINEERING COMMENTS:** Engineering has examined the plat and the parcel and has no comments, pro or con, regarding the requested variance. **FLOOD CONTROL COMMENTS:** Flood control has reviewed 411-79-478. This parcel is not in a FEMA floodplain per FEMA map 2500C dated 8/16/1988. Flood Control has no objections to this Variance. **PLANNING & ZONING DEPARTMENT:** Staff has concerns of the validity of subject site plan dimensions. Staff has requested corrected and fully dimensioned site plan which will be presented at the hearing. **PUBLIC WORKS DEPARTMENT RECOMMENDATION:** Should the Commission grant this Special Use Permit request, staff would recommend the following conditions be applied. The variance shall automatically expire if substantial construction, in accordance with the plans for which the variance is granted, has not been completed within one year from the date on which the variance is granted. **Bill Fraley** gave a brief description of the parcel. **Mr. Fraley** showed a copy of the site plan. He points out the 6 ft. area that they are proposing and shows the 16 ft. from the building to the property line. He states that they measured and it is 17 ft. from the property line to the next lot so there is a total of 34 ft. so you still have about 23 ft. of distance between the buildings and their only concerns are for safety and fire. **Bill Arendell** asked if the numbers were stated correctly. **Mr. Fraley** answered that it is 16 ft. from the house as it exists now to the property line and 17 ft. from the property line to the house next door. **Mr. Fraley** showed pictures of where they are going to build. He pointed out on the picture that from the fence line to the house next door is 17 ft. and the homeowner is purposing to build 6 ft. in. **Mr. Turley** asked if it was in front of the area they were looking at. **Mr. Fraley** answered yes. **Mr. Turley** asked if the wall would remain there. **Mr. Fraley** answered that it was a fence. **Mr. Turley** asked, then that fence will remain there. **Mr. Fraley** then answered that he believed that was correct but he would let the contractor fill them in on that. **Bill Arendell** asked if there would be access to the back yard in case of fire. **Mark Tanner**, son of the property owner, answered that if the fence came down then it would be. **Mr. Arendell** asked but you are going to leave the fence up. **Mr. Tanner** answered that it would have to come down to build the garage. **Mr. Arendell** stated so you would have to take the fence up. **Mr. Tanner** said that they would put it back up. He also said that they could move the fence on the side and in if that was a concern. **Mr. Fraley** stated that they would recommend a gate instead of a fence. **Mr. Arendell** stated for access for emergency. **Mr.**

**Tanner** said that he understood. **Verdelia Lindsey**, owner of the property, stated that the block wall was entirely on her property. She also stated that her builder noticed the survey line and there is actually 18.5 ft. that is her property and if that was the case then there would be 6.5 ft. and she would only need 3.5 ft. from the county to build an enclosed garage. **Mr. Tanner** stated that what his mother is trying to say is that the property line on the right is 18ft 8in. to the edge of their property. **Mr. Arendell** said instead of 16 ft. **Mr. Tanner** answered that was correct, because it is the outside edge of the rock wall not halfway down. **Linda Elliott** stated that Ashower builders sent a site plan and it shows 18.5 ft. **Mr. Fraley** pointed out that they went out to measure about staff measuring and asked for another site plan. He stated that as far as the variance is fine and will still cover their needs. **Mr. Tanner** added that there is room on the other side to build a garage. He stated that the only problem with that is that all of the doors are on the side of where the garage is and that the weight bearing wall on the other side has a fireplace on it. He showed on the pictures where the fireplace, water heater, laundry room and bathroom were located. There are no windows or any openings at all until you get to the back bedroom. The builder said that there would be major reconstruction if they had to tear out the wall to put in a door on that side. He also stated that his mother has to move here full time and she no longer owns her home in Tucson and is planning on moving here the first of May. She is severely arthritic, osteoporosis and is diabetic. He also said that she cannot fall down and if she does she doesn't have the strength to get back up. Currently she is having to climb 5 steps to get up on a landing to get into the house and she has to stop and rest along the way and she cannot come up in the winter time because of the snow yet if she is going to live here she has to have inside parking and a ramp for her walker, she cannot walk up and down the stairs anymore and if she does fall down she carries an emergency button that she has to push. He also said that he lives in Wyoming and he can't be here to take care of her and that she really needs this, it isn't for recreational purposes or to make the house bigger it is for her handicapped needs, she is disabled. **Verdelia** spoke and said that she had her primary care physician write a letter but she did not know that it was for Pinetop stating that her garage needed to be enclosed. She wanted to get all of her medical records faxed but that they would not be here in time for the hearing and she did not know that she would have to prove her disability. She stated that she had her physicians phone number so that he can verify that she has a disability. **Mr. Arendell** stated that it would not be necessary. **Linda** stated that she had a document stating that Ms. Lindsey has a disability and that she needs access to her home. **Mr. Arendell** stated that this would be fine. **Mr. Turley** made a motion to approve the variance with conditions. **Mr. Arendell** seconded the motion. The motion was unanimously approved. Approved by Resolution #08:04B.

### **Item #3 - Information only – Larry Spear Variance Request**

**Bill Fraley** stated that as a follow-up to the board members, there was a request by **Mr. Bailly** on this property and the request was denied by the BOA which required them to either move the building to meet all of the setbacks or to challenge the board's action to the courts. They chose to the wise plan of action and they did move it. The area in question for the variance was for this area and they wanted 17 ft. so they moved the building forward so it now meets the 20 ft. setback and the other area they had already gone ahead and had installed the septic tank and practically had it all connected up but they moved everything forward and they met all the setbacks. He just wanted to bring this before the board to show that they did do a follow up and forced them to do the compliance but the main thing is that he appreciates the board for taking a good hard look at this situation and taking the action that they did. There is a lot that transpired and a lot of things that took place and staff put up with a lot of grief and a lot of allegations. It took almost a year to fix it and it turned out to be exactly what they told them to do to start with. They started out wrong. They moved the thing on the site without a permit and followed us every step of the way. He appreciates the board for backing staff up and he feels that this was the best and proper action to take on this.

**Item #4– Possible approval of the minutes for the January 9 2008 meeting.** **Bill Arendell** made a motion to approve the minutes. **Hartley Turley** seconded the motion. Motion passed unanimously.

**Item #5 – Board Members comments and/or directions to staff.** The Board Members may use this time to offer additional comments regarding any item on this agenda or any other topic; and the board may direct Development Services Department Staff to study or provide additional information on topics of the Boards' choosing.

With there being no further business to come before the Board of Adjustment, the meeting was adjourned at 10:34 a.m. A motion was made to adjourn the meeting by **Bill Arendell**. **Hartley Turley** seconded the motion. Motion was unanimous.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Chairman, Navajo County  
Board of Adjustment

ATTEST:

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Secretary, Navajo County  
Board of Adjustment